

## **REMARKS**

### **A. Examiner Interviews**

On October 18, 2007, Applicant's representative Mark Garrett discussed with Examiner Erezo the independent claims on file at the time. The Examiner indicated that they were to be rejected again and asked for any further arguments or possible amendments that might obviate the need for another rejection. Mr. Garrett proposed amendments to all of the independent claims except for claim 81 that are identical to those presented above, except that they lacked (1) the "tapered" adjective as a modifier for the claimed "distal end" and (2) the change from "a patient's tissue" to a "a patient." The Examiner suggested that the amendment include an adjective like "distal" and, during a telephone call on October 26, 2007, no agreement on adding such an adjective or patentability was reached. The outstanding Final Office Action was then issued.

On January 10, 2008, Mr. Garrett proposed an amendment identical to the one proposed before except that it included the adjective "distal" as a modifier for the claimed "distal end." Examiner Erezo indicated that this would likely overcome the outstanding rejections of those independent claims, but recommended that Applicant consider leaving language to the effect that the claimed tapered distal end would be the end of the body inserted first into a patient during a procedure. No agreement was reached about whether Applicant would include such language. The patentability of claim 81 was also discussed in relation to the outstanding rejection against it, but no agreement was reached.

### **B. Claims 1, 3-6, 64, 66-69, 70, and 72-75 Are Novel over Kontos '539**

Claims 1, 3-6, 64, 66-69, 70, and 72-75 stand rejected as anticipated by US 5,980,539 to Kontos (Kontos '539). Applicant respectfully traverses.

## **1. Claim 1**

Claim 1 has been amended to more clearly distinguish Kontos '539, and for no other reason. Claim 1 now recites that the body includes a tapered distal end, and further recites that the tapered distal end is closer to the leading end of the claimed needle than to the trailing end of the needle. The tapered distal end of claim 1 distinguishes Kontos '539's device because, as illustrated on page 3 of the outstanding Action, the end of the device that is closer to the leading end of either needle than to the trailing end of that needle is not tapered (it is the "LEADING END" identified by the Office in the annotated version of the Kontos '539 figure appearing at the bottom of page 3 of the Action).

For this reason, the anticipation rejection of claim 1 and its rejected dependent claims is overcome and should be withdrawn.

Applicant has also amended claim 1 to change the phrase "will be directly exposed to a patient's tissue when the medical device is used during a procedure," which was added in the January 13, 2006 response in order to distinguish US 6,024,747 to Kontos, to "will be directly exposed to a patient when the medical device is used during a procedure." The change is intended to make clear that the first and second needle guide channel openings that share this characteristic need only be directly exposed to a patient when the medical device is used during a procedure, and not necessarily to any specific portion of the patient (such as the patient's tissue). This change does nothing to disturb the distinction over the '747 patent.

## **2. Claim 64**

Claim 64 has been amended in the same way and for the same reason as claim 1. It is novel over Kontos '539 for the same reason. As a result, the anticipation rejection of claim 64 and its rejected dependent claims is overcome and should be withdrawn.

Claim 64 has also been amended to change its “directly exposed” claim language in the same way as claim 1, and for the same reason.

**3. Claim 70**

Claim 70 includes the same “tapered distal end” amendment as claims 1 and 64, and for the same reason. It is novel over Kontos ‘539 for the same reason. As a result, the anticipation rejection of claim 70 and its rejected dependent claims is overcome and should be withdrawn.

**C. Claims 31-41 Are Novel over Kontos ‘555**

Claims 31-41 stand rejected as anticipated by US 5,997,555 to Kontos (Kontos ‘555). Applicant respectfully traverses.

Claim 31 has been amended to more clearly distinguish Kontos ‘555, and for no other reason. As a result of the amendment, claim 31 now recites the same “tapered distal end” claim language as claims 1, 64, and 70. This change distinguishes Kontos ‘555’s device because, as illustrated on page 5 of the outstanding Action, the end of the device that is closer to the leading end of either needle than to the trailing end of that needle is not tapered (it is the “LEADING END” identified by the Office in the annotated version of the Kontos ‘555 figure appearing near the top of page 5 of the Action).

For this reason, the anticipation rejection of claim 31 and its rejected dependent claims is overcome and should be withdrawn.

**D. Claims 2, 65, and 71 Are Patentable over the Kontos References**

Claims 2, 65, and 71 stand rejected as obvious over Kontos ‘539 in view of Kontos ‘555. Applicant respectfully traverses.

Claim 2 depends from claim 1 and is novel over Kontos '539 for at least the same reason as claim 1. Kontos '555 does not cure the deficiency of Kontos '539. Accordingly, the rejection is overcome and should be withdrawn.

Claim 65 depends from claim 64 and is novel over Kontos '539 for at least the same reason as claim 64. Kontos '555 does not cure the deficiency of Kontos '539. Accordingly, the rejection is overcome and should be withdrawn.

Claim 71 depends from claim 70 and is novel over Kontos '539 for at least the same reason as claim 70. Kontos '555 does not cure the deficiency of Kontos '539. Accordingly, the rejection is overcome and should be withdrawn.

**E. Claims 7, 10, 11, 76, 79, and 80 Are Patentable over Kontos '539**

Claims 7, 10, 11, 76, 79, 80, 81, and 83-87 stand rejected as obvious over Kontos '539. Applicant respectfully traverses. Claims 7, 10, 11, 76, 79, and 80 are all novel over Kontos '539 for at least the same reason as the respective claim from which they depend. Nothing in Kontos '539 suggests the claimed tapered distal end and its relationship to the claimed needle. Accordingly, the rejection of these dependent claims is overcome and should be withdrawn.

In an effort to expedite allowance of the claims in this application, and without acquiescing the Office's rejection or prejudice to pursuing them in a continuing application, claims 81 and 83-87 have been canceled. Thus, the rejection of them is moot.

**F. Claims 8, 9, 77, and 78 Are Patentable over the Kontos References**

Claims 8, 9, 77, 78, 82, 88, and 89 stand rejected as obvious over Kontos '539 in view of Kontos '555. Applicant respectfully traverses.

Claims 8, 9, 77, and 78 are all novel over Kontos '539 for at least the same reason as the respective claim from which they depend. Kontos '555 does not cure the deficiency of Kontos

'539. Accordingly, the rejection of these dependent claims is overcome and should be withdrawn.

In an effort to expedite allowance of the claims in this application, and without acquiescing the Office's rejection or prejudice to pursuing them in a continuing application, claims 82, 88, and 89 have been canceled. Thus, the rejection of them is moot.

**G. Claims 90 and 91**

Dependent claim 90 has been rewritten into independent form, except that the phrases "prior to a procedure" concerning the first and second needles being backloaded into the respective first and second needle guide channels has been eliminated as unnecessary. In addition, the phrase concerning a length of suture connected to a needle backloaded into any of the one or more additional needle guide channels has been changed from "... connected to the needle and threaded through the lumen" to "... connected to that needle and threaded through the lumen" for clarity. Claim 91 remains dependent from claim 90. Both claims are now in allowable form.

## **H. Conclusion**

Applicant respectfully submits that all of the pending claims are now in condition for allowance. Examiner Erez is invited to contact Applicant's representative at the number below if any further issues remain.

Respectfully submitted,

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Date: January 28, 2008